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Washington, D.C. 20530

May 11, 1983

Edward J. Schwartzbauer, Esq.
Dorsey & Whitney
2200 First Bank Place East
Minneapolis, Minn. 55402

Re: United States v. Reilly Tar & Chemical Corp.

Dear Ed:

I am writing on behalf of all the Environmental Protection Agency and Department of Justice recipients of T.E. Reilly, Jr.'s letter of April 29, 1983. As you know, at our settlement conference of August 24, 1982, the United States indicated its willingness and eagerness to review and discuss with you any Reilly proposal offered in settlement of this lawsuit. At that time, we understood that settlement discussions would be conducted in an atmosphere of discretion and confidentiality, as is appropriate for such matters.

You had promised us a settlement offer by December 31, 1982. No offer arrived by that date. You had promised the court that you would submit a settlement offer by April 15, 1983. No offer was submitted by that date.

Now you announce, via Mr. Reilly's letter, that you will present an "action plan" -- you do not even call it a settlement offer -- at a public meeting on May 19, 1983 and that you will only make it available to us the day before this staged media event. Indeed, you have refused my colleague Mr. Shakman's request that you provide your settlement offer to us any earlier than one day before your preplanned media event on May 19.

Frankly, the means by which Reilly has chosen to present this "action plan" are highly inappropriate. We do not believe that these issues should be negotiated and resolved in public displays, such as the one scheduled by Reilly. Moreover, Reilly's insistence that the proposal be presented to us only a single day before the Reilly publicity show is seriously troubling and raises the implication that Reilly intends that we not be allowed ample time to study the proposal before being asked to comment in public.

It is also inappropriate for Reilly to attempt to use its invitations to these events as a means to choose which

federal officials shall represent the United States in negotiations. We reserve the right to pick our own negotiators, just as Reilly would. I am sure that you would object if I attempted to pick Reilly's negotiating team. I am also sure that you would object if EPA directly contacted the Reilly management, just as we object to Mr. Reilly's contacting EPA officials.

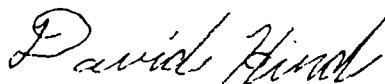
Accordingly, no representative of the Environmental Protection Agency or the Department of Justice, the two federal agencies which have responsibility for remedying the environmental problems associated with the Reilly site, shall attend either your May 18 preview or your May 19 publicity show. We remain willing to review and discuss with you any serious settlement offer which Reilly wishes to make, including this one, as long as we are given sufficient time to review it without an attendant publicity show. We hope that you submit your proposal to us in an appropriate manner so that we may seriously consider it and meet with you for discussions and settlement negotiations. However, we will negotiate over settlement offers, not "action plans". We will not separately negotiate over what is to be done at the site and who is to pay for it. The position of the United States has always been that Reilly shall be responsible for the costs of any remedy.

It seems to me that we already have an "action plan," the program which EPA and MPCA have been implementing under the cooperative agreement. What Reilly can now provide is a settlement offer presented to us in an appropriate manner, without fanfare, and with the firm understanding that Reilly is willing to pay for what it proposes.

Sincerely yours,

Assistant Attorney General
Land and Natural Resources Division

By:



David Hird
Attorney, Environmental Enforcement
Section

cc: T.E. Reilly, Jr.
Stephen Shakman
Wayne Popham
Robert Leininger
Paul Bitter
Michael Kosakowski
Deborah Woitte